

**LOCAL RULES
U. S. DISTRICT COURT, DISTRICT OF MARYLAND**

IV. BANKRUPTCY PROCEEDINGS

Rule 401. Rules in Bankruptcy Court Proceedings

Proceedings in the Bankruptcy Court shall be governed by Local Bankruptcy Rules as adopted from time to time by order of the Court.

Rule 402. Referral of Bankruptcy Cases and Proceedings

Pursuant to 28 U.S.C. Section 157(a), all cases under Title 11 of the United States Code and proceedings arising under Title 11 or arising in or related to cases under Title 11 shall be deemed to be referred to the Bankruptcy Judges of this District.

Rule 403. Appeals to the District Court

1. Manner of Appeal

a. Generally. Appeals to the District Court from the Bankruptcy Court shall be taken in the manner prescribed in Part VIII of the Bankruptcy Rules, Rules 8001 et. seq.

b. Bankruptcy Court Opinion as Appendix. Appellant shall append to appellant's opening brief a copy of the opinion of the Bankruptcy Court that is being appealed from.

2. Dismissal for Non-Compliance With Bankruptcy Rule 8006

Whenever the appellant fails to designate the contents of the record on appeal or to file a statement of the issues to be presented on appeal within the time required by Bankruptcy Rule 8006, the Bankruptcy Clerk shall forward forthwith to the Clerk of the District Court a partial record consisting of a copy of the order or judgment appealed from, the notice of appeal, a copy of the docket entries and such other papers as the Bankruptcy Clerk deems relevant to the appeal. (The District Court may thereafter order the Bankruptcy Clerk to transmit any other relevant papers to the Clerk of the District Court). When the partial record has been filed in the District Court the Court may, upon motion of the appellee (which is to be filed in the District Court) or upon its own initiative, dismiss the appeal for non-compliance with Bankruptcy Rule 8006 after giving the appellant an opportunity to explain the non-compliance and upon considering whether the non-compliance had prejudicial effect on the other parties.

3. Dismissal for Non-Compliance With Bankruptcy Rule 8009

Whenever the appellant fails to serve and file a brief within the time required by Bankruptcy Rule 8009, the District Court may, upon motion of the appellee (to be filed in the District Court) or upon its own initiative, dismiss the appeal after giving the appellant an opportunity to explain the non-compliance and upon considering whether the non-compliance had prejudicial effect on the other parties.

4. Procedure Re Motion To Stay Pending Appeal

An appellant seeking a stay pending appeal by the District Court of an order entered by the Bankruptcy Court shall file with the Clerk of the District Court a motion to stay and copies of all papers in the record of the Bankruptcy Court relevant to the appeal. Upon the filing of these papers the Clerk of the District Court shall immediately open a civil file and the District Court shall give immediate consideration to the motion to stay. If the underlying appeal is ultimately perfected, it will be assigned the same civil action number as was assigned to the motion to stay.

5. Bankruptcy Court Certification Re Interlocutory Appeal

Whenever there has been filed in the District Court an application for leave to appeal an interlocutory order of the Bankruptcy Court, the Bankruptcy Court shall, upon request of the District Court, submit to the District Court a written certification stating whether, in its opinion, the interlocutory order involves a controlling question of law as to which there is substantial ground for difference of opinion and whether an immediate appeal of it may materially advance the ultimate termination of the case. The District Court shall thereafter determine whether to grant or deny the application for leave to appeal.

Rule 404. Rules of Procedure Under 28 U.S.C. Section 1334

A. Filing of Pleadings and papers

1. General Rule

When a case or proceeding has been referred by this Court to the Bankruptcy Court, all papers and pleadings in or related to such case or proceeding shall be filed with the Clerk in the Bankruptcy Court pursuant to Local Bankruptcy Rules 1 and 2.

2. Withdrawal of Reference of Certain Bankruptcy Proceedings

a. Filing of Motion for Withdrawal of Reference With Bankruptcy Clerk

A motion pursuant to 28 U.S.C. § 157(d) to withdraw the reference of any bankruptcy case, contested matter or adversary proceeding referred to the Bankruptcy Court pursuant to 28 U.S.C. § 157(a) shall be filed with the Clerk in the Bankruptcy Court.

b. Withdrawal of Reference of Bankruptcy Cases

A motion to withdraw the reference of a case to the Bankruptcy Court must be timely filed, and in any event, before the case is closed.

c. Withdrawal of Reference of Adversary Proceeding or Contested Matter

A motion to withdraw an adversary proceeding or a contested matter which has been referred to the Bankruptcy Court must be filed by the earlier of eleven (11) days before the date scheduled for the first hearing on the merits and,

- i. in the case of an adversary proceeding, within twenty (20) days after the last pleading is permitted to be filed pursuant to Bankruptcy Rule 7012; or
- ii. in the case of a contested matter, within twenty (20) days after the last memorandum is permitted to be filed pursuant to Local Bankruptcy Rule 30(b)(4).

3. Filing of Pleadings In Transferred Cases

a. If an entire case has been transferred from the Bankruptcy Court, all pleadings and papers in or related to such case shall be filed with the Clerk in the District Court.

b. Where only a portion of an entire case has been transferred, pleadings and papers with respect to the case (including any parts thereof that have been withdrawn, transferred, or removed) shall continue to be filed with the Clerk in the Bankruptcy Court. The Clerk in the Bankruptcy Court shall keep a docket sheet of all pleadings and papers filed in bankruptcy-related matters which are to be transferred to the District Court. All such pleadings and papers shall be formally transferred to the Clerk in the District Court promptly following the entry of the pleading or paper upon the docket sheet of the Bankruptcy Court.

4. Upon withdrawal, transfer or removal of any complaint to the District Court, plaintiff shall forward to defendant a notice and request to waive service of summons or the Clerk shall issue a District Court summons pursuant to F.R. Civ. P. 4(d) unless either of the aforementioned has already occurred pursuant to the Bankruptcy Rules.

5. This subsection (5) governs proceedings in personal injury tort and wrongful death actions which must be tried in the District Court pursuant to 28 U.S.C. § 157(b)(5). Except for the procedures contained within this subsection, these personal injury tort and wrongful death actions shall be instituted and all pleadings and papers filed in the same manner as all other cases under 28 U.S.C. § 1334. However, beneath the bankruptcy number, the pleading or other paper shall designate the pleading or paper as a "SECTION 157(b)(5) MATTER." When filing a complaint a completed civil cover sheet (A.O. Form JS-44c) should be submitted beneath the cover sheet required by Local Bankruptcy Rule 2(e). No summons shall be issued until the case is transferred to the District Court. However, upon filing the complaint, the Clerk in the Bankruptcy Court shall immediately transfer the case to the District Court and plaintiff shall forward to defendant(s) a notice and request to waive service of summons or the Clerk of the District Court shall issue a summons pursuant to Fed. R.Civ.P. 4(d).

B. Motions Concerning Venue in Bankruptcy Cases and Proceedings

All motions concerning venue in cases arising under Title 11 or arising in or related to cases under Title 11 shall be determined by the Bankruptcy Court, except in those cases to be tried in the District Court pursuant to 28 U.S.C. § 157(b)(5).

Rule 405. Jury Trial

a. Demand. In any bankruptcy proceeding any party may demand a trial by jury of any issue triable of right by jury by (1) serving upon the other parties a demand therefor in writing at any time after the commencement of the action and not later than 10 days after the service of the last pleading directed to such issue, and (2) filing the demand as required by Bankruptcy Rule 7005. Such demand may be indorsed upon a pleading of the party. If the adversary proceeding is one that has been removed from another court, any demand previously made under the rules of that court shall constitute a demand for trial by jury under this rule.

b. Specification of Issues. In the demand a party may specify the issues which the party wishes so tried; otherwise the party shall be deemed to have demanded trial by jury for all the issues so triable. If the party has demanded trial by jury for only some of the issues, any other party within 10 days after service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action.

c. Waiver. The failure of a party to serve and file a demand as required by this rule constitutes a waiver by the party of trial by jury. A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties.